

## **JUSTIFICATION OF SURETIES (EXCERPT)**

### **Act 179 of 1885**

#### **15.101 Official bonds; justification of sureties prerequisite to approval.**

Sec. 1. That hereafter no bond required by law to be signed by surety or sureties shall hereafter be received and accepted or approved by any officer or other person or board whose duty it is or may be to accept or approve of any such bond unless the surety or sureties signing such bond shall first have justified their pecuniary responsibility under their signature, in writing, endorsed on said bond or attached thereto. And before any such bond shall be received and approved or accepted, the justification of the sureties thereof shall, in the aggregate, equal the penal sum of the bond, and show that the sureties thereof are worth in unencumbered property not exempt from execution under the laws of this state the penal sum thereof, after payment of all just debts, claims, and liabilities.

**History:** 1885, Act 179, Eff. Sept. 19, 1885;—How. 8234a;—CL 1897, 159;—CL 1915, 195;—CL 1929, 397;—CL 1948, 15.101.

## **JUSTIFICATION OF SURETIES (EXCERPT)**

### **Act 179 of 1885**

#### **15.102 Official bonds; oath of justification, penalty.**

Sec. 2. Such oath of justification shall be administered by some officer authorized by law to administer oaths, and any person knowingly or willfully making any false statement of his pecuniary responsibility in such justification shall be guilty of perjury and liable, upon conviction thereof, to the penalty of perjury.

**History:** 1885, Act 179, Eff. Sept. 19, 1885;—How. 8234b;—CL 1897, 160;—CL 1915, 196;—CL 1929, 398;—CL 1948, 15.102.

## **JUSTIFICATION OF SURETIES (EXCERPT)**

### **Act 179 of 1885**

#### **15.103 Official bonds; acceptance without justification; penalty; liability.**

Sec. 3. Any person or persons receiving and accepting or approving any such bond without such justification shall be guilty of a misdemeanor, and shall further be liable for all damages that may be sustained or incurred by any person by reason of such defective bond being accepted or approved.

**History:** 1885, Act 179, Eff. Sept. 19, 1885;—How. 8234c;—CL 1897, 161;—CL 1915, 197;—CL 1929, 399;—CL 1948, 15.103.

## **CONSTITUTIONAL OATH OF OFFICE (EXCERPT)**

### **Act 22 of 1951**

#### **15.151 Constitutional oath of office; employees and persons in service of state.**

Sec. 1. All persons now employed, or who may be employed by the state of Michigan or any governmental agency thereof, and all other persons in the service of the state or any governmental agency, shall, as a condition of their employment, take and subscribe to the oath or affirmation required of members of the legislature and other public officers by section 2 of article 16 of the constitution of 1908 of the state of Michigan.

**History:** 1951, Act 22, Imd. Eff. Apr. 5, 1951.

**Compiler's note:** For constitutional provision referred to in this section, see now Const. 1963, Art. XI, § 1.

## **CONFLICT OF INTEREST (EXCERPT)**

### **Act 318 of 1968**

#### **15.301 Conflict of interest; purpose.**

Sec. 1. This statute is enacted for the purpose of implementing the provisions of section 10 of article 4 of the constitution. Therefore, this act shall be taken into consideration in determining the construction and effect to be given the constitutional section, insofar as the same is constitutionally possible.

**History:** 1968, Act 318, Eff. Sept. 1, 1968.

**Compiler's note:** Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

## **CONFLICT OF INTEREST (EXCERPT)**

### **Act 318 of 1968**

#### **15.302 Direct or indirect interest in state contracts prohibited.**

Sec. 2. No member of the legislature, herein referred to as a "legislator", nor any state officer shall be interested directly or indirectly in any contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest.

**History:** 1968, Act 318, Eff. Sept. 1, 1968.

**Compiler's note:** Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

### **CONFLICT OF INTEREST (EXCERPT)** **Act 318 of 1968**

#### **15.303 Definitions.**

Sec. 3. As used in this act:

(a) The term "state officer" means only a person occupying one of the following offices established by the constitution: governor; lieutenant governor; secretary of state; state treasurer; attorney general; auditor general; superintendent of public instruction; member of the state board of education; regent of the university of Michigan; trustee of Michigan State University; governor of Wayne State University; member of a board of control of one of the other institutions of higher education named in section 4 of article 8 of the constitution or established by law as therein provided; president of each of the foregoing universities and institutions of higher learning; member of the state board for public community and junior colleges; member of the supreme court; member of the court of appeals; member of the state highway commission; director of the state highway commission; member of the liquor control commission; member of the board of state canvassers; member of the commission on legislative apportionment; member of the civil service commission; state personnel director; or member of the civil rights commission; together with his principal deputy who by law under specified circumstances, may exercise independently some or all of the sovereign powers of his principal whenever the deputy is actually exercising such powers.

(b) "Political subdivision" includes all public bodies corporate within but not including the state, including all agencies thereof or any non-incorporated body within the state of whatever nature, including all agencies thereof.

**History:** 1968, Act 318, Eff. Sept. 1, 1968.

**Compiler's note:** Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

### **CONFLICT OF INTEREST (EXCERPT)** **Act 318 of 1968**

#### **15.304 Pecuniary interest; cases in which there is no substantial conflict of interest.**

Sec. 4. (1) As used in section 2, "interested" means a pecuniary interest.

(2) If there is a conflict of interest on the part of a legislator or state officer in respect to a contract with the state or a political subdivision of the state, to be prohibited by this act his or her personal interest must be of such substance as to induce action on his or her part to promote the contract for his or her own personal benefit.

(3) In the following cases, there is no substantial conflict of interest:

(a) A contract between the state or a political subdivision of the state and any of the following:

(i) A corporation in which a legislator or state officer is a stockholder owning 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or the stock has a present market value of \$25,000.00 or less if the stock is listed on a stock exchange.

(ii) A corporation in which a trust, where a legislator or state officer is a beneficiary under the trust, owns 1% or less of the total stock outstanding in any class if the stock is not listed on a stock exchange or the stock has a present market value of \$25,000.00 or less if the stock is listed on a stock exchange.

(iii) A professional limited liability company organized pursuant to the Michigan limited liability company act, Act No. 23 of the Public Acts of 1993, being sections 450.5101 to 450.6200 of the Michigan Compiled Laws, if a legislator or state officer is an employee but not a member of the company.

(b) A contract between the state or a political subdivision of the state and any of the following:

(i) A corporation in which a legislator or state officer is a stockholder owning more than 1% of the total stock outstanding in any class if the stock is not listed on a stock exchange or the stock has a present market value in excess of \$25,000.00 if the stock is listed on a stock exchange or a director, officer, or employee.

(ii) A firm, partnership, or other unincorporated association, in which a legislator or state officer is a partner, member, or employee.

(iii) A corporation or firm that has an indebtedness owed to a legislator or state officer.

(iv) A trustee or trustees under a trust in which a legislator or state officer is a beneficiary or trustee or a corporation in whose stock the trust funds are invested, if the investment includes more than 1% of the total stock outstanding in any class if the stock is not listed on a stock exchange or if the stock has a present market value in excess of \$25,000.00 if the stock is listed on a stock exchange, if the legislator or state officer does not solicit the contract, takes no part in the negotiations for or in the approval of the contract or any amendment to the contract, and does not in any way represent either party in the transaction and the contract is not with or authorized by the department or agency of the state or a political subdivision with which the state officer is connected.

(c) A contract between the state and a political subdivision of the state or between political subdivisions of the state.

(d) A contract awarded to the lowest qualified bidder, upon receipt of sealed bids pursuant to a published notice for bids provided the notice does not bar, except as authorized by law, any qualified person, firm, corporation, or trust from bidding. This subdivision does not apply to amendments or renegotiations of a contract or to additional payments under the contract which were not authorized by the contract at the time of award.

(e) A contract for public utility services where the rates for the services are regulated by the state or federal government.

**History:** 1968, Act 318, Eff. Sept. 1, 1968;—Am. 1994, Act 292, Imd. Eff. July 14, 1994.

**Compiler's note:** Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

#### **CONFLICT OF INTEREST (EXCERPT)** **Act 318 of 1968**

##### **15.304a Contract arising from status of being both student and member of governing board.**

Sec. 4a. In addition to the cases set forth in section 4, there shall not be deemed to be a conflict of interest with respect to a contract arising out of the status of being a student at an institution of higher education granting baccalaureate degrees or an institution established pursuant to section 7 of article 8 of the state constitution of 1963 where the student is elected or appointed to the governing board of the institution of higher education.

**History:** Add. 1974, Act 317, Imd. Eff. Dec. 15, 1974;—Am. 1976, Act 423, Imd. Eff. Jan. 11, 1977.

**Compiler's note:** Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

#### **CONFLICT OF INTEREST (EXCERPT)** **Act 318 of 1968**

##### **15.305 Voidability of contracts; procedure; knowledge; limitation on actions; reimbursement; amicable settlement; evidences of indebtedness.**

Sec. 5. (1) This act, following the evident intent of section 10 of article 4 of the constitution, is aimed to prevent legislators and state officers from engaging in certain activities under circumstances creating a substantial conflict of interest and is not intended to penalize innocent persons. Therefore, no contract shall be absolutely void by reason of this act or the constitutional provision which it implements. Contracts involving a prohibited conflict of interest under this act and said constitutional provision shall be voidable only by decree of a court of proper jurisdiction in an action by the state or a political subdivision which is a party thereto, as to any person, firm, corporation or trust that entered into said contract or took any assignment thereof, with actual knowledge of such prohibited conflict. In the case of a corporation, the actual knowledge must be that of a person or body finally approving the contract for the corporation. All actions to avoid any contract hereunder shall be brought within 1 year after discovery of circumstances suggesting the existence of a violation of the constitutional provision as implemented by this act. In order to meet the ends of justice any such decree shall provide for the reimbursement of any person, firm, corporation or trust for the reasonable value of all moneys, goods, materials, labor or services furnished under the contract, to the extent that the state or political subdivision has benefited thereby. This provision shall not prohibit the parties from arriving at an amicable settlement.

(2) Negotiable and nonnegotiable bonds, notes or evidences of indebtedness, whether heretofore or hereafter issued, in the hands of purchasers for value, shall not be void or voidable by reason of this act or of the constitutional provision which it implements or of any previous statute, charter or rule of law.

**History:** 1968, Act 318, Eff. Sept. 1, 1968.

**Compiler's note:** Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

### **CONFLICT OF INTEREST (EXCERPT)** **Act 318 of 1968**

#### **15.306 Existing contracts; validity.**

Sec. 6. If the state or any political subdivision thereof has, prior to the effective date of this act, entered into any contract under which moneys, goods, materials, labor or services, have been actually received by the state or the political subdivision, which was void or voidable under any act, charter or rule of law because of conflict of interest on the part of a legislator or state officer at the time of the execution thereof, such contract shall be fully enforceable notwithstanding such conflict of interest, by any party thereto other than such legislator or state officer.

**History:** 1968, Act 318, Eff. Sept. 1, 1968.

**Compiler's note:** Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

### **CONFLICT OF INTEREST (EXCERPT)** **Act 318 of 1968**

#### **15.307 Legislative committee on conflict of interest; appointment, duties and powers; prohibitions; violations.**

Sec. 7. There is created a special committee of the legislature on conflict of interest (herein referred to as the committee) to consist of 3 members of the senate and 3 members of the house of representatives, at least 1 of whom from each house shall be a member of the minority party, to be appointed in the same manner as standing committees of the senate and the house. The committee shall have the following duties and powers:

- (a) It shall establish, by majority vote, its rules and procedures;
- (b) Its members shall serve without compensation, but shall be entitled to actual and necessary expenses while on the business of the committee;
- (c) It may, upon the request of any member of the legislature, render advisory opinions to legislators as to whether under the facts and circumstances of a particular case a legislator is interested directly or indirectly in a contract with the state or any political subdivision thereof which shall cause a substantial conflict of interest;
- (d) It may insure that the identity of persons involved in any request for advisory opinions shall not be disclosed in the request, advisory opinion or otherwise.

Any member of the legislature who is licensed as an attorney is prohibited from appearing in any nonadversary or nonministerial proceeding before any state department, office, board or commission of the executive branch of government.

Any member of the legislature willfully violating the provisions of this act shall be subject to appropriate disciplinary action by the house of which he is a member.

**History:** 1968, Act 318, Eff. Sept. 1, 1968.

**Compiler's note:** Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

### **CONFLICT OF INTEREST (EXCERPT)** **Act 318 of 1968**

#### **15.308 Conflicts of interest; state officers, violations.**

Sec. 8. Any state officer willfully violating the provisions of this act shall be subject to appropriate disciplinary action by the governor if he is an administrative officer of the state or if he be a judicial officer of the state, then by the governor on a concurrent resolution adopted by 2/3 of the members elected to and serving in each house of the legislature.

**History:** 1968, Act 318, Eff. Sept. 1, 1968.

**Compiler's note:** Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

**CONFLICT OF INTEREST (EXCERPT)**  
**Act 318 of 1968**

**15.309 Conflicts of interest; controlling law.**

Sec. 9. All acts and parts of acts in conflict herewith are hereby repealed, it being the intention hereof that the provisions of said section 10 of article 4 of the constitution as implemented by this act, shall constitute the sole law in respect to conflicts of interest involving legislators and state officers in contracts with the state or its political subdivisions.

**History:** 1968, Act 318, Eff. Sept. 1, 1968.

**Compiler's note:** Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

**CONFLICT OF INTEREST (EXCERPT)**  
**Act 318 of 1968**

**15.310 Effective date.**

Section 10. This act shall take effect September 1, 1968.

**History:** 1968, Act 318, Eff. Sept. 1, 1968.

**Compiler's note:** Section 191 of Act 227 of the Public Acts of 1975 repealed §§4.401 to 4.410, 168.901 to 168.929, 15.321 to 15.330, 15.301 to 15.310, and 15.341 to 15.348. The Michigan Supreme Court, however, in Advisory Opinion on Constitutionality of 1975 PA 227, 396 Mich. 123, 240 N.W.2d 193 (1976), held Act 227 of the Public Acts of 1975 unconstitutional for being in violation of Mich. Const., Art. 4, § 24.

**WOLF-DOG CROSS ACT (EXCERPT)**  
**Act 246 of 2000**

**287.1013 Inspection of facility; violation; consultation with expert on wolf-dog cross identification.**

Sec. 13. (1) A facility is subject to inspection at reasonable hours by a law enforcement officer to ensure compliance with this act.

(2) Subject to subsection (3), if there is probable cause to believe that this act is being violated, a law enforcement officer shall do 1 of the following:

(a) Issue to the violator a notice of the violation under section 14.

(b) Arrest the violator or seek a warrant for his or her arrest, as appropriate under chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.1 to 764.29, for a misdemeanor under section 15.

(c) File a sworn complaint under section 16(3).

(3) If a law enforcement officer believes that a canid is a wolf-dog cross but the owner of the canid is unable or unwilling to verify that the canid is a wolf-dog cross, the law enforcement officer, before enforcing this act, shall consult with an expert on wolf-dog cross identification. The expert on wolf-dog cross identification shall consider all relevant aspects of identification, such as behavioral characteristics, and morphological traits, including gait, and any necropsy results. Consultation with an expert on wolf-dog cross identification is not a prerequisite to enforcing this act for a violation of section 3(1)(d) or (e).

**History:** 2000, Act 246, Imd. Eff. June 29, 2000.

**LARGE CARNIVORE ACT (EXCERPT)**  
**Act 274 of 2000**

**287.1113 Inspection of facility by law enforcement officer.**

Sec. 13. (1) A facility is subject to inspection at reasonable hours by a law enforcement officer to ensure compliance with this act.

(2) If there is probable cause to believe that this act is being violated, a law enforcement officer shall do 1 of the following:

(a) Issue to the owner of the large carnivore a notice of the violation under section 14.

(b) Arrest the owner of the large carnivore or seek a warrant for his or her arrest, as appropriate under chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.1 to 764.29, for a misdemeanor under section 15.

(c) File a sworn complaint under section 16(3).

**History:** 2000, Act 274, Imd. Eff. July 7, 2000.

**THE MOTOR CARRIER ACT (EXCERPT)**  
**Act 254 of 1933**



#### 475.1 Definitions.

Sec. 1. The words and phrases used in this act shall be construed as follows, unless the context shall otherwise require:

(a) "Motor vehicle" means any automobile, truck, trailer, semitrailer, truck tractor, road tractor, or any self-propelled or motor or mechanically driven vehicle, or any vehicle in anywise attached to, connected with, or drawn by any self-propelled or motor or mechanically driven vehicle, used upon any public highway of this state for the purpose of transporting property.

(b) "Public highway" means any public highway, road, street, avenue, alley, or thoroughfare of any kind, or any bridge, tunnel, or subway used by the public.

(c) "Commission" means the Michigan public service commission.

(d) "Person" means any individual, partnership, association, or corporation, and their lessees, trustees, or receivers appointed by any court.

(e) "For hire" means for remuneration or reward of any kind, paid or promised, either directly or indirectly.

(f) "Motor common carrier of property" means any person who holds himself or herself out to the public as being engaged in the business of a for hire common carrier as at the common law, either directly or through any device or arrangement, including but not limited to those who operate over fixed routes or within 1 mile of a fixed route or between fixed termini, in the transportation by motor vehicle from place to place upon or over the highways of this state, the property, or any property, or any class of property of others who may choose to employ the person.

(g) "The public" means that part or portion of the general public which the motor carrier is ready, able, willing, and equipped to serve.

(h) "Motor contract carrier of property" means any person providing motor vehicle transportation upon the highways of this state for a series of shipments under continuing agreement of not less than 1 year with a person which agreement provides for the assignment of motor vehicles exclusively for each such person while the vehicle is in the service of such person and which agreement is designed to meet the distinct needs of each such person. Lower rates, in and of themselves, shall not constitute a distinct need. A motor contract carrier that possesses a motor common carrier certificate of authority of that class set forth at section 5(6)(a) of article II may commingle authorized contract carrier shipments while providing common carrier service over fixed routes, without assigning any vehicle exclusively for the person or persons for whom contract service is provided. A motor contract carrier authorized to transport packages or articles weighing 70 pounds or less for 1 or more contract shippers may commingle such authorized packages or articles weighing 70 pounds or less in the same vehicle with commodities transported as a common or contract carrier, without assigning any vehicle exclusively for the person or persons for whom contract service is provided. A motor contract carrier authorized to transport coin, currency, or food stamps for 1 or more contract shippers, may commingle such authorized coin, currency, or food stamps in the same vehicle with commodities transported as a common or a contract carrier, without assigning any vehicle exclusively for the person for whom contract service is provided.

(i) "Motor carrier" means both motor common carriers of property and motor contract carriers of property. Motor carrier does not include a private carrier.

(j) "Certificate of authority" means a certificate issued to a motor common carrier authorizing a transportation service that serves a useful public purpose responsive to a public demand or need, which certificate is issued under the terms of this act.

(k) "Permit" means the permit issued to motor contract carriers under the terms of this act.

(l) "Through any device or arrangement" means any and all methods, means, agreements, circumstances, operations, or subterfuges under which any person undertakes for hire to conduct, direct, control, or otherwise perform the transportation by motor vehicle of property upon the public highways of this state.

(m) "Modified procedure" means that administrative procedure by which the commission may consider evidence and testimony submitted in the form of verified statements in motor carrier matters without the necessity for an oral hearing.

(n) "Occasional accommodative service" means service limited to operations conducted by persons not regularly engaged in the transportation business of a motor common carrier or a motor contract carrier.

(o) "Required public purpose" means a purpose for which an applicant can provide adequate, economic, safe, effective, competitive, and equitable motor carrier service to satisfy a demonstrated public necessity, without creating excess service.

(p) "Fit", as applied to a proposed motor carrier service, means safe, suitable, and financially responsible as determined by the commission.

(q) "Private carrier" means any person engaged in the transportation of property by motor vehicle upon public highways where the transportation is incidental to, or in furtherance of, any commercial enterprise of the person, other than transportation.

(r) "General rate" means a rate applicable to 2 or more motor carriers which rate is filed pursuant to section 6b of article V.

(s) "Base rate, fare, or charge" means that nondiscounted rate, fare, or charge specified in a carrier's rate schedule on file with the commission.

(t) "Predatory rate" means a rate that is below its fully allocated costs. As used in this subdivision, "fully allocated costs" means total costs, including variable costs, plus an allocation of fixed costs.

**History:** 1933, Act 254, Eff. Oct. 17, 1933;—Am. 1945, Act 264, Eff. Sept. 6, 1945;—CL 1948, 475.1;—Am. 1957, Act 173, Eff. Sept. 27, 1957;—Am. 1959, Act 232, Imd. Eff. Aug. 12, 1959;—Am. 1982, Act 399, Imd. Eff. Dec. 28, 1982;—Am. 1993, Act 352, Imd. Eff. Jan. 13, 1994.

**Former law:** See Act 209 of 1923, being CL 1929, §§ 11342 to 11352; Act 212 and Act 312 of 1931.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.1432 Mode of administering oaths; commencement of oath; administration of oath or affirmation by electronic or electromagnetic means.**

Sec. 1432. (1) The usual mode of administering oaths now practiced in this state, by the person who swears holding up the right hand, shall be observed in all cases in which an oath may be administered by law except as otherwise provided by law. The oath shall commence, "You do solemnly swear or affirm".

(2) If an oath or affirmation is administered by electronic or electromagnetic means of communication pursuant to section 1 of Act No. 189 of the Public Acts of 1966, being section 780.651 of the Michigan Compiled Laws, or pursuant to section 1 of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.1 of the Michigan Compiled Laws, the oath or affirmation is considered to be administered before the justice, judge, or district court magistrate.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1990, Act 45, Imd. Eff. Mar. 29, 1990.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.1440 Oath, affidavit, or affirmation; administration; certification by military officer; force and effect of instrument sworn or affirmed before military officer; form of certificate; oath or affirmation administered by electronic or electromagnetic means of communication.**

Sec. 1440. (1) An oath or affidavit other than an oath taken by a witness or a juror in a trial, or an oath required by law to be taken before a particular officer, may be taken before a justice, judge, or clerk of a court, or before a notary public.

(2) If the person making the oath, affidavit, or an affirmation is serving in or with the armed forces of the United States, or is a civilian employee of the armed forces, or is a dependent of a person serving in or with the armed forces or of a civilian employee thereof, whether serving in or outside of the territorial limits of the United States, such oath or affirmation may be administered by any commissioned officer in active service of the armed forces of the United States.

(3) An instrument sworn or affirmed before a military officer pursuant to this section is not invalid because the instrument fails to state the place where the oath or affirmation was taken. An authentication of a military officer's authority to administer the oath or affirmation is not required, but the officer administering the oath or affirmation shall indorse and attach to the instrument a certificate containing all of the following:

(a) A statement that the affiant or affirmant is known to be, or has satisfactorily proved to the officer that he or she is, a member of the armed forces of the United States or the dependent of a member, or a civilian employee of the armed forces or the dependent of a civilian employee.

(b) A statement that the officer is a commissioned officer in active service with the armed forces.

(c) A statement of the officer's rank, and the command to which he or she is attached.

(4) An instrument sworn or affirmed before a military officer pursuant to this section has the same force and effect as an instrument sworn or affirmed before any officer authorized by law to administer an oath or affirmation.

(5) If an acknowledgment is taken before a military officer, the certificate shall be substantially in the following form:

On this, the.....day of ....., 19...., before me, ....., the undersigned officer, personally appeared ....., known to me (or satisfactorily proved) to be serving in or with the armed forces of the United States, or who is known to be or has satisfactorily proved that he or she is the dependent of a member, a civilian employee of

the armed forces or the dependent of a civilian employee, and who is the person whose name is subscribed to the foregoing ..... and made oath that he or she knows the contents of the foregoing, and the foregoing is true to the best of his or her knowledge, except as to matters stated to be of information and belief, and as to those matters ..... he or she ..... believes them to be true. I am a commissioned officer of the rank stated below, and I am a member of the armed forces of the United States.

Signature of officer

Rank of officer, and command to which attached

(6) If an oath or affirmation is administered by electronic or electromagnetic means of communication pursuant to section 1 of Act No. 189 of the Public Acts of 1966, being section 780.651 of the Michigan Compiled Laws, or pursuant to section 1 of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.1 of the Michigan Compiled Laws, the oath or affirmation is considered to be administered before the justice, judge, or district court magistrate.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1964, Act 1, Eff. Aug. 28, 1964;—Am. 1974, Act 297, Eff. Apr. 1, 1975;—Am. 1990, Act 44, Imd. Eff. Mar. 29, 1990.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)** **Act 236 of 1961**

##### **600.6401 Court of claims; short title.**

Sec. 6401. This chapter shall be known and may be cited as “the court of claims act”.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)** **Act 236 of 1961**

##### **600.6404 Court of claims; creation; jurisdiction; disability, absence, or death of judge.**

Sec. 6404. The court of claims is created as a function of the circuit court for the thirtieth judicial circuit. A circuit judge of the thirtieth judicial circuit and any judge assigned into the thirtieth judicial circuit by the state court administrator may exercise the jurisdiction of the court of claims as provided by law.

(2) In case of the disability or absence from the place of holding court of a circuit judge before whom while sitting as the judge of the court of claims a case has been tried or motion heard, another circuit judge designated to sit as the judge of the court of claims to may continue, hear, determine, and sign all matters that his or her predecessor could have continued, heard, determined, and signed.

(3) In case a circuit judge designated to sit as the judge of the court of claims dies before signing a judgment and after filing a finding of fact or rendering an opinion upon proof submitted and argument of counsel disposing of all or part of the issues in the case involved, a successor as judge of the court of claims may proceed with that action in a manner consistent with the finding or opinion and the judge is given the same powers as if the finding of fact had been made or the opinion had been rendered by the successor judge.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1978, Act 164, Eff. Jan. 1, 1979.

**Compiler's note:** In subsection (2) “judge of the court of claims to may continue,” evidently should read “judge of the court of claims may continue.”

Sections 2 to 7 of Act 145 of 1974 provide:

##### **“Effective date of changes.**

“Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

##### **“Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.**

“Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

##### **“Nominating petitions.**

“Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

##### **“Nomination, election, and terms of candidates for new circuit judgeships.**

“Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the



August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

**“Terms of additional circuit judges.**

“Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

**“Terms of additional district judges in certain districts.**

“Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years.”

Sections 2 to 7 of Act 164 of 1978 provide:

**“Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.**

“Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

**“Election to fill new circuit and district judgeships; term.**

“Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

**“Ballot; nominating petition; affidavit of candidacy.**

“Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

**“Terms of judges.**

“Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

**“Election of additional judges; assumption and term of office.**

“Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

“(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

**“Residence of certain circuit judges; effect.**

“Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years.”

Section 1 of Act 128 of 1980 provides:

**“Enacting sections amended; revised judicature act of 1961.**

“Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

**“Election of additional judges; assumption and terms of office.**

“Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

“(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

**“Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.**

“Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be

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eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

“(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years.”

## **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

### **Act 236 of 1961**

#### **600.6407 Sessions; number; location; notice; court officer; space and equipment.**

Sec. 6407. The court shall hold at least 4 sessions in each year. Sessions of the court of claims may be held in the various circuits in the state as the supreme court administrator may determine. If the hearing in a particular case is to be held at a place other than the city of Lansing, due notice shall be given to all interested persons. The sheriff of the county within which a case is heard, or 1 of his deputies, shall serve as court officer without additional compensation therefor. The department of management and budget shall furnish the court with suitable space and equipment in the city of Lansing.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1974, Act 145, Imd. Eff. June 7, 1974.

**Compiler's note:** Sections 2 to 7 of Act 145 of 1974 provide:

**“Effective date of changes.**

“Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

**“Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.**

“Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

**“Nominating petitions.**

“Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

**“Nomination, election, and terms of candidates for new circuit judgeships.**

“Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

**“Terms of additional circuit judges.**

“Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

**“Terms of additional district judges in certain districts.**

“Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years.”

## **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

### **Act 236 of 1961**

#### **600.6410 Court of claims; appointment or removal of clerk; copies of records, proceedings, and testimony; fees of clerk, reporter, or recorder; no charge to state; service of process.**

Sec. 6410. (1) The circuit judges of the thirtieth judicial circuit shall appoint or remove the clerk of the court of claims.

(2) For making copies of records, proceedings, and testimony and furnishing the same at the request of the claimant, or any other person, the clerk of the court of claims, or any reporter or recorder serving in the court of claims shall be entitled in addition to salary, to the same fees as are by law provided for court reporters or recorders in the circuit court. No charge shall be made against the state for services rendered for furnishing copies of records, proceedings, or testimony or other papers to the attorney general.

(3) Process issued by the court may be served by any member of the Michigan state police as well as any other officer or person authorized to serve process issued out of the circuit court.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 164, Eff. Jan. 1, 1979;—Am. 1986, Act 308, Eff. Jan. 1, 1987.

**Compiler's note:** Sections 2 to 7 of Act 164 of 1978 provide:

**“Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.**

“Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

**“Election to fill new circuit and district judgeships; term.**

“Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

**“Ballot; nominating petition; affidavit of candidacy.**

“Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

**“Terms of judges.**

“Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

**“Election of additional judges; assumption and term of office.**

“Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

“(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

**“Residence of certain circuit judges; effect.**

“Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years.”

Section 1 of Act 128 of 1980 provides:

**“Enacting sections amended; revised judicature act of 1961.**

“Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

**“Election of additional judges; assumption and terms of office.**

“Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

“(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

**“Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.**

“Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

“(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years.”

## **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

### **Act 236 of 1961**

**600.6413 Costs of implementing jurisdictional duties in circuit court; reimbursement of Ingham county; quarterly submission of itemized costs; reasonableness of costs; payment; transfer of employees of court of claims to circuit court for thirtieth judicial circuit; preservation of rights and benefits; retirement benefits.**

Sec. 6413. (1) The state shall reimburse the county of Ingham for the reasonable and actual costs incurred by that county for implementing jurisdictional duties in the circuit court imposed on that county by this chapter.

(2) The county of Ingham shall submit quarterly its itemized costs as described in this section to the state court administrative office. After determination by the state court administrator of the reasonableness of the amount to be paid, payment shall be made pursuant to the accounting laws of this state. Determination of reasonableness by the state court administrator shall be conclusive.

(3) Full-time employees of the court of claims are transferred to the circuit court for the thirtieth judicial circuit. Seniority rights, annual leave, sick leave, longevity pay and retirement benefits to which employees of the court of claims are now entitled shall be preserved and the employees shall be continued in their positions in the court of claims in the thirtieth judicial circuit in a manner not inferior to their prior status. The obligation of the state for retirement benefits to employees of the court of claims for their accrued service in the court of claims shall not be transferred. The retirement system available to public employees in Ingham county shall provide retirement benefits to employees of the court of claims not inferior to those provided therefor under their prior status.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1978, Act 164, Eff. Jan. 1, 1979.

**Compiler's note:** Sections 2 to 7 of Act 164 of 1978 provide:

**"Sections 600.6404, 600.6410, and 600.6413 effective January 1, 1979; effective date of changes in composition of judicial circuits or district court districts.**

"Section 2. Sections 6404, 6410, and 6413 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.6404, 600.6410, and 600.6413 of the Compiled Laws of 1970, shall not take effect until January 1, 1979. Except as otherwise provided in sections 524, 527, and 534 of Act No. 236 of the Public Acts of 1961, as amended by this amendatory act, being sections 600.524, 600.527, and 600.534 of the Compiled Laws of 1970, the changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1979.

**"Election to fill new circuit and district judgeships; term.**

"Section 3. Except as otherwise provided in sections 4, 5, 6 and 7, the new circuit and district judgeships created by this amendatory act shall be filled by election pursuant to Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Michigan Compiled Laws, for a term of 6 years commencing January 1, 1979.

**"Ballot; nominating petition; affidavit of candidacy.**

"Section 4. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective circuit and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing nominating petitions, whether the candidate is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act shall bear signatures affixed to the petition after the effective date of this act. An elected incumbent circuit judge in a circuit in which the number of circuit judges has been increased by this amendatory act may become a candidate in the primary election for that office for any term for which a circuit judge is to be elected at the 1978 general election in that circuit by filing an affidavit of candidacy with the secretary of state not later than 4 days after the effective date of this amendatory act.

**"Terms of judges.**

"Section 5. Of the 2 additional judgeships created for the third judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. Of the 3 additional judgeships created for the sixth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidates receiving the second and third highest number of votes shall be elected for a term of 6 years. Of the 2 additional judgeships created for the thirtieth judicial circuit, the candidate receiving the highest number of votes in the 1978 general election shall be elected for a term of 8 years and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. The additional circuit judges authorized by this amendatory act in the eighth, seventeenth, and twenty-ninth judicial circuits shall be elected for a term of 8 years. The additional circuit judge authorized by this amendatory act in the eighteenth, thirty-first, thirty-eighth, and fortieth judicial circuits shall be elected for a term of 10 years. The additional district judges authorized in the thirty-fifth and forty-first-a districts and in the first division of the fifty-sixth district shall be elected for a term of 4 years.

**"Election of additional judges; assumption and term of office.**

"Section 6. (1) The additional district judges authorized by this amendatory act in the fifty-fourth-b district and the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 4 years.

"(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

**"Residence of certain circuit judges; effect.**

"Section 7. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of the county of Cheboygan on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the thirty-third judicial circuit and the second circuit judgeship authorized by law for the twenty-sixth judicial circuit shall be filled by election in 1980 for a term of 8 years. If the circuit judge elected in the twenty-sixth judicial circuit in 1978 is a resident of 1 of the counties of Alpena, Montmorency, or Presque Isle on June 6, 1978, that person shall continue during the remainder of his or her term after January 1, 1981 as a judge of the twenty-sixth judicial circuit and the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by



election in 1980 for a term of 6 years.”

Section 1 of Act 128 of 1980 provides:

**“Enacting sections amended; revised judicature act of 1961.**

“Section 1. Enacting sections 6 and 7 of Act No. 164 of the Public Acts of 1978 are amended to read as follows:

**“Election of additional judges; assumption and terms of office.**

“Section 6. (1) The additional district judge authorized by this amendatory act in the first division of the fifty-second district shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

“(2) The additional circuit judge authorized by this amendatory act in the fourteenth judicial circuit shall be elected in 1980 and shall assume office on January 1, 1981, for a term of 8 years.

**“Twenty-sixth judicial circuit; vacancy; residence of candidates; eligibility of electors; failure of Cheboygan county to approve creation of fifty-third judicial circuit and circuit judgeship.**

“Section 7. (1) If a vacancy occurs in the twenty-sixth judicial circuit between the effective date of this section, as amended, and June 3, 1980, candidates to fill the unexpired portion of the term shall be residents of the twenty-sixth judicial circuit as that circuit will be constituted on January 1, 1981, pursuant to this act. Electors of the counties of Alcona, Alpena, Montmorency, and Presque Isle shall be eligible to vote in the primary and general elections of 1980 to fill that vacancy and electors of those counties are qualified to sign and circulate nominating petitions for candidates to fill the vacancy.

“(2) If the county of Cheboygan does not approve the creation of the fifty-third judicial circuit and the circuit judgeship proposed for it pursuant to House Bill No. 5553 of the 1980 regular session of the legislature, the second circuit judgeship authorized by law for the thirty-third judicial circuit shall be filled by election in 1980 for a term of 6 years.”

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.6416 Court of claims; representation of state by attorney general or assistants.**

Sec. 6416. The attorney general, or his assistants, shall appear for and represent the interests of the state in all matters before the court.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.6419 Court of claims; exclusive jurisdiction; exceptions; claims less than \$1,000.00; claims and demands ex contractu and ex delicto; counterclaims; res adjudicata; setoff, recoupment, or cross declaration; writs of execution or garnishment; no jurisdiction of claim for compensation under § 418.101 et seq. and § 419.101 et seq.; jurisdiction of circuit court over certain actions and proceedings.**

Sec. 6419. (1) Except as provided in sections 6419a and 6440, the jurisdiction of the court of claims, as conferred upon it by this chapter, shall be exclusive. The state administrative board is hereby vested with discretionary authority upon the advice of the attorney general, to hear, consider, determine, and allow any claim against the state in an amount less than \$1,000.00. Any claim so allowed by the state administrative board shall be paid in the same manner as judgments are paid under section 6458 upon certification of the allowed claim by the secretary of the state administrative board to the clerk of the court of claims. The court has power and jurisdiction:

(a) To hear and determine all claims and demands, liquidated and unliquidated, ex contractu and ex delicto, against the state and any of its departments, commissions, boards, institutions, arms, or agencies.

(b) To hear and determine any claims or demands, liquidated or unliquidated, ex contractu or ex delicto, which may be pleaded by way of counterclaim on the part of the state or any department, commission, board, institution, arm, or agency of the state against any claimant who may bring an action in the court of claims. Any claim of the state or of any department, commission, board, institution, arm, or agency of the state may be pleaded by way of counterclaim in any action brought against the state, or any other department, commission, board, institution, arm, or agency of the state.

(2) The judgment entered by the court of claims upon any such claim, either against or in favor of the state or any department, commission, board, institution, arm, or agency of the state, upon becoming final shall be res adjudicata of that claim. Upon the trial of any cause in which any demand is made by the state or any department, commission, board, institution, arm, or agency of the state against the claimant either by way of setoff, recoupment, or cross declaration, the court shall hear and determine each claim or demand, and if the court finds a balance due from the claimant to the state, the court shall render judgment in favor of the state for the balance. Writs of execution or garnishment may issue upon the judgment the same as from the circuit court of this state. The judgment entered by the court of claims upon any claim, either for or against the claimant, shall be final unless appealed from as provided in this chapter.

(3) The court of claims shall not have jurisdiction of any claim for compensation under the provisions of either of the following:



(a) The worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws.

(b) Act No. 329 of the Public Acts of 1937, as amended, being sections 419.101 to 419.104.

(4) This chapter shall not deprive the circuit court of this state of jurisdiction over actions brought by the taxpayer under the general sales tax act, Act No. 167 of the Public Acts of 1933, being sections 205.51 to 205.78 of the Michigan Compiled Laws, or proceedings for declaratory or equitable relief, or any other actions against state agencies based upon the statutes of this state in such case made and provided, which expressly confer jurisdiction thereof upon the circuit court, or proceedings to review findings as provided in the Michigan employment security act, Act No. 1 of the Public Acts of the Extra Session of 1936, being sections 421.1 to 421.72 of the Michigan Compiled Laws, or any other similar proceedings expressly authorized by the statutes of this state in such case made and provided.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.6419a Court of claims; concurrent jurisdiction of demand for equitable relief and declaratory judgment.**

Sec. 6419a. In addition to the powers and jurisdiction conferred upon the court of claims by section 6419, the court of claims has concurrent jurisdiction of any demand for equitable relief and any demand for a declaratory judgment when ancillary to a claim filed pursuant to section 6419. The jurisdiction conferred by this section is not intended to be exclusive of the jurisdiction of the circuit court over demands for declaratory and equitable relief conferred by section 605.

**History:** Add. 1984, Act 212, Imd. Eff. July 9, 1984.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.6420 Delegation of authority for claim by state employee of \$500.00 or less; certification of loss or damage.**

Sec. 6420. The state administrative board may delegate the authority vested in it by section 6419(1) for any claim of \$500.00 or less for damage or loss of personal property by a claimant who is an employee of the state, to the head of the department in which the claimant was employed. Payment of the claim shall be made upon the written certificate of the department head that the loss or damage occurred in the course of the claimant's employment, without fault on the part of the claimant and that the claimant has not otherwise been reimbursed for the loss.

**History:** Add. 1971, Act 163, Imd. Eff. Nov. 24, 1971;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.6421 Joinder of cases.**

Sec. 6421. Cases in the court of claims may be joined for trial with cases arising out of the same transaction or series of transactions which are pending in any of the various trial courts of the state. A case in the court of claims shall be tried and determined by the judge even though the trial court action with which it may be joined is tried to a jury under the supervision of the same trial judge.

**History:** Add. 1974, Act 145, Imd. Eff. June 7, 1974;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

**Compiler's note:** Sections 2 to 7 of Act 145 of 1974 provide:

##### **"Effective date of changes.**

"Section 2. The changes in the composition of judicial circuits or district court districts as provided in this amendatory act shall become effective for judicial purposes on January 1, 1975.

##### **"Election of additional circuit and district judges; assumption of office; appearance of new judgeships on ballot; nominating petitions; incumbent judges.**

"Section 3. The additional circuit and district judges authorized by this amendatory act shall be elected in 1974 and shall assume office on January 1, 1975. The new judgeships authorized by this amendatory act shall appear on the ballot separate and apart from other judicial offices on the ballot in the primary and general election in the respective judicial circuits and district court districts. If another judicial office of the same court is to be filled by election in the same circuit or district, a candidate for a new judgeship authorized in that circuit or district by this amendatory act shall indicate, at the time of filing his nominating petitions, whether he is filing for a new judgeship or for 1 of the other judicial offices of the same court to be filled by election in the applicable year. Petitions for a new judgeship created by this act must bear signatures affixed thereto after the effective date of this act. Any incumbent circuit or district judge whose term is expiring January 1, 1975, and who is seeking election to a judicial office of the same court in 1974 is entitled to the designation of his office even if he is a candidate for a new office of the same court authorized by this amendatory act.

##### **"Nominating petitions.**

“Section 4. Notwithstanding any other provision of law, nominating petitions for the offices added by this 1974 amendatory act shall contain not less than 1/2 of 1% nor more than 2% of the total number of votes cast in that judicial circuit for secretary of state at the last preceding general November election in which a secretary of state was elected.

**“Nomination, election, and terms of candidates for new circuit judgeships.**

“Section 5. Notwithstanding the provisions of sections 3 and 4 of Act No. 169 of the Public Acts of 1972, the 10 candidates for the new circuit judgeships in the third judicial circuit created by Act No. 169 of the Public Acts of 1972 who receive the highest votes in the August primary election shall be deemed nominated for the 5 new judgeships created thereby. Of the additional judgeships so created for the third judicial circuit the candidate receiving the highest number of votes in the 1974 general election shall be elected for a term of 10 years, the candidates receiving the second and third highest number of votes shall be elected for a term of 8 years, and the candidates receiving the fourth and fifth highest number of votes shall be elected for a term of 6 years.

**“Terms of additional circuit judges.**

“Section 6. The additional circuit judges authorized by this amendatory act shall be elected for a term of 6 years except that the additional circuit judge authorized by this amendatory act in the forty-fourth judicial circuit shall be elected for a term of 8 years.

**“Terms of additional district judges in certain districts.**

“Section 7. In districts in which the district court is already functioning on the effective date of this amendatory act, the additional district judges authorized by this amendatory act shall be elected for a term of 6 years, except that the additional district judges authorized in the first election division of the ninth district and in the fifteenth district shall be elected for a term of 8 years and that the additional district judge authorized in the newly divided forty-first-a district shall be elected for a term of 4 years.”

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

**Act 236 of 1961**

**600.6422 Court of claims; practice and procedure.**

Sec. 6422. Practice and procedure in the court of claims shall be in accordance with the statutes and court rules prescribing the practice in the circuit courts of this state, except as herein otherwise provided. The supreme court shall have power to make special rules for said court.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

**Act 236 of 1961**

**600.6425 Court of claims; depositions.**

Sec. 6425. The statutes and rules governing the taking of depositions in suits in the circuit courts of this state shall govern in the court of claims, except that it is not sufficient that the witness resides more than 50 miles from the place of holding court to enable the deposition to be used for any purpose.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

**Act 236 of 1961**

**600.6428 Court of claims; witnesses; power to compel attendance.**

Sec. 6428. The court of claims is hereby given the same power to subpoena witnesses and require the production of books, papers, records, documents and any other evidence and to punish for contempt as the circuit courts of this state now have or may hereafter have. The judge and clerk of said court may administer oaths and affirmations, and take acknowledgments of instruments in writing.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

**Act 236 of 1961**

**600.6431 Court of claims; notice of intention to file claim; contents; time; verification; copies.**

Sec. 6431. (1) No claim may be maintained against the state unless the claimant, within 1 year after such claim has accrued, files in the office of the clerk of the court of claims either a written claim or a written notice of intention to file a claim against the state or any of its departments, commissions, boards, institutions, arms or agencies, stating the time when and the place where such claim arose and in detail the nature of the same and of the items of damage alleged or claimed to have been sustained, which claim or notice shall be signed and verified by the claimant before an officer authorized to administer oaths.

(2) Such claim or notice shall designate any department, commission, board, institution, arm or agency of the state involved in connection with such claim, and a copy of such claim or notice shall be furnished to the clerk at the time of the filing of the original for transmittal to the attorney general and to each of the departments, commissions, boards, institutions, arms or agencies designated.

(3) In all actions for property damage or personal injuries, claimant shall file with the clerk of the court of claims a notice of intention to file a claim or the claim itself within 6 months following the happening of the event giving rise to the cause of action.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.6434 Pleadings; verification and service of complaint; copies.**

Sec. 6434. (1) Except as provided in this section, the pleadings shall conform to the rules for pleadings in the circuit courts.

(2) The complaint shall be verified. The pleadings of the state need not be verified.

(3) The complaint shall be served upon any department, commission, board, institution, arm, or agency of the state involved in the litigation, in the same manner as a complaint filed in the circuit court.

(4) With each paper, including the original complaint filed by the claimant, 1 copy of each shall be furnished to the clerk who shall immediately transmit the copy to the attorney general.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.6437 Court of claims; judgment on stipulated facts.**

Sec. 6437. The court may order entry of judgment against the state or any of its departments, commissions, boards, institutions, arms or agencies based upon facts as stipulated by counsel after taking such proofs in support thereof as may be necessary to satisfy the court as to the accuracy of such facts and upon being satisfied that such judgment is in accordance with applicable law.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.6440 Court of claims; remedy in federal court as bar to jurisdiction.**

Sec. 6440. No claimant may be permitted to file claim in said court against the state nor any department, commission, board, institution, arm or agency thereof who has an adequate remedy upon his claim in the federal courts, but it is not necessary in the complaint filed to allege that claimant has no such adequate remedy, but that fact may be put in issue by the answer or motion filed by the state or the department, commission, board, institution, arm or agency thereof.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.6443 Court of claims; trial by court without jury; new trial.**

Sec. 6443. The case shall be heard by the judge without a jury. The court may grant a new trial upon the same terms and under the same conditions and for the same reasons as prevail in the case of the circuit courts of this state, in a case at law without a jury.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.6446 Appeals to court of appeals; procedure; notice of entry of final order or judgment; time for appeal as of right.**

Sec. 6446. (1) Appeals shall lie from the court of claims to the court of appeals in all respects as if the court of claims was a circuit court.

(2) The procedure for the taking of appeals to the court of appeals from the court of claims shall be governed by the statutes and court rules governing the taking of appeals from a circuit court to the court of appeals in a case at law, without a jury.

(3) The clerk of the court of claims shall immediately furnish the parties to every action with a notice of entry of any final order or judgment, and the time within which an appeal as of right may be taken shall be governed by the Michigan court rules.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**  
**Act 236 of 1961**

**600.6449 Costs; security for costs on appeal.**

Sec. 6449. (1) If the state shall put in issue the right of claimant to recover, the court may allow costs to the prevailing party from the time of the joining of the issue. The costs, however, shall include only witness fees and officers' fees for service of subpoenas actually paid, and attorney fees in the same amount as is provided for trial of cases in circuit court.

(2) Costs upon an appeal to the court of appeals shall be allowed in like amounts and for the same items as in a case appealed to the court of appeals from the circuit court.

(3) In the case of costs allowed against a claimant, judgment shall be entered thereon and writs of execution or garnishment may issue as from the circuit court.

(4) In the event of an appeal to the court of appeals by a claimant the judge may, upon motion by the attorney general, require security for costs from the claimant in connection with such an appeal.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 212, Imd. Eff. July 9, 1984.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)****Act 236 of 1961****600.6452 Court of claims; filing of claim; time; limitation of actions; right of attorney general to petition for administration of estate or appoint guardian of minor or disabled.**

Sec. 6452. (1) Every claim against the state, cognizable by the court of claims, shall be forever barred unless the claim is filed with the clerk of the court or suit instituted thereon in federal court as authorized in section 6440, within 3 years after the claim first accrues.

(2) Except as modified by this section, the provisions of RJA chapter 58, relative to the limitation of actions, shall also be applicable to the limitation prescribed in this section.

(3) The attorney general shall have the same right as a creditor under the provisions of the statutes of the state of Michigan in such case made and provided, to petition for the granting of letters of administration of the estate of any deceased person.

(4) The attorney general shall have the same right as a superintendent of the poor under the provisions of the statutes of the state of Michigan in such case made and provided, to petition for the appointment of a guardian of the estate of a minor or any other person under disability.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)****Act 236 of 1961****600.6455 Interest rate on judgments; effect of settlement offer; rejection of offer.**

Sec. 6455. (1) Interest shall not be allowed upon any claim up to the date of the rendition of judgment by the court, unless upon a contract expressly stipulating for the payment of interest. All judgments from the date of the rendition of the judgment shall carry interest at the rate of 12% per annum compounded annually, except that judgment upon a contract expressly providing for interest shall carry interest at the rate provided by the contract in which case provision to that effect shall be incorporated in the judgment entered. This subsection shall apply to any civil action based on tort filed on or after July 9, 1984 but before January 1, 1987 and any action pending before the court of claims on July 9, 1984. This subsection shall apply to any action, other than a civil action based on tort, filed on or after July 1, 1984 and any action pending before the court of claims on July 9, 1984.

(2) Except as otherwise provided in this subsection, for complaints filed on or after January 1, 1987, interest on a money judgment recovered in a civil action shall be calculated from the date of filing the complaint at a rate of interest which is equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer, and compounded annually, pursuant to this section.

(3) For complaints filed on or after October 1, 1986, interest shall not be allowed on future damages from the date of filing the complaint to the date of entry of the judgment.

(4) If a bona fide, reasonable written offer of settlement in a civil action based on tort is made by the party against whom the judgment is subsequently rendered, the court shall order that interest shall not be allowed beyond the date the written offer of settlement which is made and rejected by the plaintiff, and is filed with the court.

(5) Except as otherwise provided in subsection (3), if a bona fide, reasonable written offer of settlement in a civil action based on tort is not made by the party against whom the judgment is subsequently rendered, or is made and that offer is not filed with the court, the court shall order that interest be calculated from the date of filing the complaint to the date of satisfaction of the judgment.

(6) Except as otherwise provided in subsection (3), if a bona fide, reasonable written offer of settlement in a civil action based on tort is made by a plaintiff for whom the judgment is subsequently rendered and that offer is rejected and the offer is filed with the court, the court shall order that interest be calculated from the date of the rejection of the offer to the date of satisfaction of the judgment at a rate of interest equal to 2% plus the rate of interest computed under subsection (2).

(7) An offer made pursuant to this section which is not accepted within 21 days after the offer is made shall be considered rejected. A rejection, under this subsection or otherwise, does not preclude a later offer by either party.

(8) As used in this section:

(a) "Bona fide, reasonable written offer of settlement" means:

(i) With respect to an offer of settlement made by a defendant against whom judgment is subsequently rendered, an offer of settlement that is not less than 90% of the amount actually received by the plaintiff in the action through judgment.

(ii) With respect to an offer of settlement made by a plaintiff, an offer of settlement that is not more than 110% of the amount actually received by the plaintiff in the action through judgment.

(b) "Defendant" means a defendant, a counter-defendant, or a cross-defendant.

(c) "Party" means a plaintiff or a defendant.

(d) "Plaintiff" means a plaintiff, a counter-plaintiff, or a cross-plaintiff.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1984, Act 212, Imd. Eff. July 9, 1984;—Am. 1986, Act 178, Eff. Oct. 1, 1986.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.6458 Court of claims; judgment against state; payment.**

Sec. 6458. (1) In rendering any judgment against the state, or any department, commission, board, institution, arm, or agency, the court shall determine and specify in that judgment the department, commission, board, institution, arm, or agency from whose appropriation that judgment shall be paid.

(2) Upon any judgment against the state or any department, commission, board, institution, arm, or agency becoming final, or upon allowance of any claim by the state administrative board and upon certification by the secretary of the state administrative board to the clerk of the court of claims, the clerk of the court shall certify to the state treasurer the fact that that judgment was entered or that the claim was allowed and the claim shall thereupon be paid from the unencumbered appropriation of the department, commission, board, institution, arm, or agency if the state treasurer determines the unencumbered appropriation is sufficient for the payment. In the event that funds are not available to pay the judgment or allowed claim, the state treasurer shall instruct the clerk of the court of claims to issue a voucher against an appropriation made by the legislature for the payment of judgment claims and allowed claims. In the event that funds are not available to pay the judgment or allowed claim, that fact, together with the name of the claimant, date of judgment, date of allowance of claim by the state administrative board and amount shall be reported to the legislature at its next session, and the judgment or allowed claim shall be paid as soon as money is available for that purpose. The clerk shall not certify any judgment to the state treasurer until the period for appeal from that judgment shall have expired, unless written stipulation between the attorney general and the claimant or his or her attorney, waiving any right of appeal or new trial, is filed with the clerk of the court.

(3) The clerk shall approve vouchers under the direction of the court for the payment of the several judgments rendered by the court. All warrants issued in satisfaction of those judgments shall be transmitted to the clerk for distribution; and all warrants issued in satisfaction of claims allowed by the state administrative board shall be transmitted to the secretary of the state administrative board for distribution.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2002, Act 429, Imd. Eff. June 5, 2002.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

##### **Act 236 of 1961**

#### **600.6461 Court of claims; clerk's report to legislature; state treasurer and budget director.**

Sec. 6461. (1) At the commencement of each session of the legislature and at such other times during the session as he or she may consider proper, the clerk of the court shall report to the legislature the claims upon which the court has finally acted, with a statement of the judgment rendered in each case.

(2) The clerk shall submit a detailed statement of the amount of each claim allowed by the court to the state treasurer and the budget director.

**History:** 1961, Act 236, Eff. Jan. 1, 1963;—Am. 2002, Act 429, Imd. Eff. June 5, 2002.

#### **REVISED JUDICATURE ACT OF 1961 (EXCERPT)**



**Act 236 of 1961**

**600.6464 Court of claims; judgment; discharge.**

Sec. 6464. The payment of any amount due as found by the judgment of the court of claims, including interest and costs, shall operate as a discharge of such judgment.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

**Act 236 of 1961**

**600.6467 Court of claims; state agencies to furnish information upon request.**

Sec. 6467. The court shall have power to call upon any officer, department, institution, board, arm or agency of the state government for any examination, information or papers pertinent to the issues involved in any case then pending before the court. No state employee shall receive any additional fees or compensation for rendering such services or appearing as a witness before the court upon behalf of the state.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

**Act 236 of 1961**

**600.6470 Court of claims; fraud in connection with claim; forfeiture.**

Sec. 6470. Any person who corruptly practices, or attempts to practice, any fraud against the state of Michigan, in the proof, statement, establishment, or allowance of any claim or of any part of a claim, against the state, shall thereby forfeit the same to the state and it shall be the duty of the court of claims in such case to find specifically that such fraud was practiced, or attempted to be practiced, and thereupon to give judgment that such claim is forfeited to the state and that the claimant be forever barred from prosecuting the same.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**REVISED JUDICATURE ACT OF 1961 (EXCERPT)**

**Act 236 of 1961**

**600.6475 Court of claims; actions involving negligent operation of motor vehicles or aircraft; defense of governmental function.**

Sec. 6475. In all actions brought in the court of claims against the state to recover damages resulting from the negligent operation by an officer, agent or employee of the state of a motor vehicle or an aircraft, other than a military aircraft, of which the state is owner, the fact that the state, in the ownership or operation of such motor vehicle or aircraft, was engaged in a governmental function shall not be a defense to such action. This act shall not be construed to impose upon the state a liability other or greater than the liability imposed by law upon other owners of motor vehicles or aircraft.

**History:** 1961, Act 236, Eff. Jan. 1, 1963.

**THE CODE OF CRIMINAL PROCEDURE (EXCERPT)**

**Act 175 of 1927**

**764.1 Issuance of processes; authorization for issuance of warrant; exception; making complaint for arrest warrant by electronic or electromagnetic means; proof.**

Sec. 1. (1) For the apprehension of persons charged with a felony, misdemeanor, or ordinance violation, a magistrate may issue processes to implement this chapter, except that a magistrate shall not issue a warrant for other than a minor offense unless an authorization in writing allowing the issuance of the warrant is filed with the magistrate and, except as otherwise provided in this act, the authorization is signed by the prosecuting attorney, or unless security for costs is filed with the magistrate.

(2) A magistrate shall not issue a warrant for a minor offense unless an authorization in writing allowing the issuance of the warrant is filed with the magistrate and signed by the prosecuting attorney, or unless security for costs is filed with the magistrate, except if the warrant is requested by any of the following officials for the following offenses:

(a) Agents of the state transportation department, a county road commission, or the public service commission for violations of the motor carrier act, 1933 PA 254, MCL 475.1 to 479.43, or the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22, the enforcement of which has been delegated to them.

(b) The director of the department of natural resources, or a special assistant or conservation officer appointed by the director and declared by statute to be a peace officer, for a violation of a law that provides

for the protection of wild game or fish.

(3) A complaint for an arrest warrant may be made by any electronic or electromagnetic means of communication, if all of the following occur:

(a) The prosecuting attorney authorizes the issuance of the warrant. Authorization may consist of an electronically or electromagnetically transmitted facsimile of the signed authorization.

(b) The judge orally administers the oath or affirmation to an applicant for an arrest warrant who submits a complaint under this subsection.

(c) The applicant signs the complaint. Proof that the applicant has signed the complaint may consist of an electronically or electromagnetically transmitted facsimile of the signed complaint.

(4) The person or department receiving an electronically or electromagnetically issued arrest warrant shall receive proof that the issuing judge has signed the warrant before the warrant is executed. Proof that the issuing judge has signed the warrant may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant.

**History:** 1927, Act 175, Eff. Sept. 5, 1927;—Am. 1929, Act 290, Eff. Aug. 28, 1929;—CL 1929, 17135;—Am. 1931, Act 173, Imd. Eff. May 27, 1931;—CL 1948, 764.1;—Am. 1978, Act 616, Eff. Aug. 1, 1979;—Am. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1990, Act 41, Imd. Eff. Mar. 29, 1990;—Am. 2004, Act 318, Imd. Eff. Aug. 27, 2004.

**Former law:** See section 1 of Ch. 163 of R.S. 1846, being CL 1857, § 5977; CL 1871, § 7843; How., § 9454; CL 1897, § 11838; CL 1915, § 15665; Act 4 of 1858; and section 1 of Act 108 of 1883, being How., § 7135a; CL 1897, § 1061; and CL 1915, § 15811.

## **THE CODE OF CRIMINAL PROCEDURE (EXCERPT)**

### **Act 175 of 1927**

#### **764.1a Complaint; allegations; swearing before magistrate or clerk; finding of reasonable cause; testimony; supplemental affidavits; basis of factual obligations; complaint alleging violation of MCL 750.81 and 750.81a or corresponding ordinance; compliance with MCL 764.1; "dating relationship" defined.**

Sec. 1a. (1) A magistrate shall issue a warrant upon presentation of a proper complaint alleging the commission of an offense and a finding of reasonable cause to believe that the individual accused in the complaint committed that offense. The complaint shall be sworn to before a magistrate or clerk.

(2) The finding of reasonable cause by the magistrate may be based upon 1 or more of the following:

(a) Factual allegations of the complainant contained in the complaint.

(b) The complainant's sworn testimony.

(c) The complainant's affidavit.

(d) Any supplemental sworn testimony or affidavits of other individuals presented by the complainant or required by the magistrate.

(3) The magistrate may require sworn testimony of the complainant or other individuals. Supplemental affidavits may be sworn to before an individual authorized by law to administer oaths. The factual allegations contained in the complaint, testimony, or affidavits may be based upon personal knowledge, information and belief, or both.

(4) The magistrate shall not refuse to accept a complaint alleging a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a violation of a local ordinance substantially corresponding to section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81, by the spouse of the victim, a former spouse of the victim, an individual with whom the victim has had a child in common, an individual with whom the victim has or has had a dating relationship, or an individual residing or having resided in the same household as the victim on grounds that the complaint is signed upon information and belief by an individual other than the victim.

(5) A warrant may be issued under this section only upon compliance with the requirements of section 1 of this chapter.

(6) As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

**History:** Add. 1980, Act 506, Imd. Eff. Jan. 22, 1981;—Am. 1994, Act 70, Eff. July 1, 1994;—Am. 2005, Act 106, Imd. Eff. Sept. 14, 2005.